

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES 1/
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY

Mary Norris, D.V.M.
License No. 001572
Pomfret Small Animal Clinic
54 Orchard Hill Road
Pomfret, Connecticut 06259

Petition No. 911204-47-020

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND:

The Department of Health Services ("Department") presented the Connecticut Board of Veterinary Medicine ("Board") with a Statement of Charges brought against Mary Norris, D.V.M. ("Respondent") dated May 18, 1994. (Department Exhibit 1) The Statement of Charges alleged in two (2) counts that the Respondent violated Connecticut General Statutes §20-202.

Prior to the initiation of the instant charges, the Department gave the Respondent the opportunity to attend a compliance conference, originally scheduled for November 25, 1992, but held on December 11, 1992, to show compliance with all lawful requirements for the retention of her license. The Respondent attended the conference with counsel. (Department Exhibit 3; Transcript 9/7/94 pp. 5-6)

1/ At the time this action was initiated, this agency was known as the Department of Health Services. Effective July 1, 1993, the Department of Health Services merged with the Connecticut Alcohol and Drug Abuse Commission to form the new Department of Public Health and Addiction Services. Public Act No. 93-381.

The Department served the Notice of Hearing and the Statement of Charges on the Respondent by certified mail, return receipt requested. (Department Exhibit 1) The Respondent filed a response to the Statement of Charges in an Answer dated August 3, 1994. (Respondent Exhibit A)

The administrative hearing to adjudicate the charges brought by the Department began on September 7, 1994. The second date of the hearing was set for November 30, 1994. On October 3, 1994, the Department submitted a Request for Continuance to which the Respondent had no objection. The Board denied the continuance. On November 22, 1994, the Respondent submitted a Request for Continuance to which the Department did not object. The Board granted the continuance. The second and last day of the hearing was held on January 4, 1995. Board members present for both hearing dates were Jordan R. Dann, D.V.M., Chairman; John C. Gogliettino; Ferris G. Gorra, D.V.M.; and Richard E. Lau, D.V.M. On both hearing dates, the Respondent appeared with his attorney, Richard R. Brown, Esq., of Hartford, Connecticut. Roberta Swafford, Esq., represented the Department. Both the Department and the Respondent presented evidence and were given the opportunity to cross-examine witnesses.

At the hearing on September 7, 1994, the Department moved to amend the Statement of Charges as follows: the date in Paragraph 3a to be changed from August 19, 1989, to May 15, 1990; and Paragraph 3b to be deleted. The Respondent had no objections.

The Board conducted the hearings in accordance with Connecticut General Statutes Chapter 54 and the Regulations of Connecticut State Agencies §19-2a-1, et seq. All board members received copies of the entire record. All board members involved in this decision attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record and the specialized professional knowledge of the Board in evaluating the evidence.

AMENDED ALLEGATIONS:

The Department alleged that the Respondent is, and has been at all times referenced in the Statement of Charges, the holder of Connecticut veterinary medicine license number 001572.

In the First Count, the Department further alleged:

That between August 15, 1989, and September 3, 1991, the Respondent provided veterinary care and treatment for a persistent cough and other conditions to Pierre, a miniature poodle, who was born in June 1979 and owned by Shirley West;

That Respondent failed to conform to the standard of care for veterinarians, and thereby violated Connecticut General Statutes §20-202, by doing one or more of the following:

- a. diagnosing Pierre as having a collapsed trachea on or about May 15, 1990, without first taking a radiograph and/or
- b. misdiagnosing Pierre as having an abscessed lipoma on or about December 7, 1990.

In the Second Count, the Department further alleged:

That between September 6, 1988, and June 27, 1990, the Respondent provided veterinary care and treatment to Troubles, a miniature dachshund, who was born in April 1978 and owned by Dawn Stringer;

That on or about February 9, 1990, Troubles, who had a history of disc disease when he was five years old, had difficulty walking on his front legs and by June 27, 1990, when he was euthanized, he also had difficulty walking on his hind legs;

That Respondent failed to conform to the standard of care for veterinarians, and thereby violated Connecticut General Statutes §20-202, by failing to offer to conduct appropriate diagnostic tests, e.g., she did not take radiographs and/or perform a myelogram.

FINDINGS OF FACT:

1. The Respondent is, and has been at all times referenced in this Statement of Charges, the holder of Connecticut veterinary medicine license number 001572. (Respondent Exhibit A)
2. The Respondent has a veterinary practice in Pomfret Center, Connecticut. (Transcript 1/4/95 pp. 69, 71)

With Regard to the First Count

3. Between August 15, 1989, and September 3, 1991, the Respondent provided veterinary care and treatment for a persistent cough and other conditions to Pierre, a miniature poodle. (Department Exhibit 6; Respondent Exhibit A)

4. Pierre, who was born in June 1979, was owned by Shirley West. (Department Exhibit 6; Transcript 9/7/94 pp. 13-14)

5. On or about May 15, 1990, the Respondent diagnosed Pierre as having a collapsed trachea without first taking a radiograph. (Department Exhibit 6; Transcript 1/4/95 pp. 75-76)

6. There is no credible evidence that the owner of Pierre, Shirley West, refused to have radiographs taken of Pierre.

With Regard to the Second Count

7. Between September 6, 1988, and June 27, 1990, the Respondent provided veterinary care and treatment to Troubles, a miniature dachshund. (Department Exhibit 8; Respondent Exhibit A)

8. Troubles, who was born in April 1977, was owned by Dawn Stringer. (Department Exhibit 8; Transcript 9/7/94 pp. 42-43)

9. Troubles had had a history of disc disease from when he was five years old. (Department Exhibit 8; Transcript 9/7/94 pp. 44-45)

10. Troubles was seen by the Respondent on February 9, 1990, at which time he had difficulty walking on his front legs.

(Transcript 9/7/94 p.44; Transcript 1/4/95 p.90)

11. On February 10, 1990, the Respondent prescribed Feldene for Troubles. (Department Exhibit 8; Transcript 1/4/95 p. 93)

12. Troubles was seen by the Respondent on March 27, 1990. (Department Exhibit 8)

13. The Respondent saw Troubles on June 22, 1990, at which time Troubles had a loss of sensitivity in his hind end and was unable to stand. (Department Exhibit 8; Transcript 1/4/95 p. 98)

14. Troubles was hospitalized from June 22, 1990, until June 25, 1990. (Department Exhibit 8)

15. By June 27, 1990, Troubles could not walk. (Transcript 9/7/94 p. 48)

16. Troubles was euthanized on June 27, 1990. (Department Exhibit 8)

17. The Respondent failed to offer to take radiographs or to perform a myelogram on Troubles at the February 1990 visit or afterward. (Department Exhibit 8; Transcript 9/7/94 pp. 47-48, 50-51)

DISCUSSION AND CONCLUSIONS OF LAW:

Connecticut General Statutes §20-202(2) provides in pertinent part:

After notice and opportunity for hearing as provided in the regulations established by the commissioner of public health and addictions services, said board may take any of the actions set forth in section 19a-17 for any of the following causes: ... (2) proof that the holder of such license or certificate has become unfit or incompetent or has been guilty of cruelty, unskillfulness or gross negligence towards animals and birds;....

The Board finds that the Department bears the burden of proof by a preponderance of the evidence in this matter.

The First Count

With regard to Paragraph 3a of the First Count, the Department sustained its burden of proof that the Respondent diagnosed Pierre as having a collapsed trachea without first taking a radiograph and that such conduct is a failure to conform to the standard of care of veterinarians. Accordingly, the Board finds that the failure to meet the standard of care of veterinarians constitutes a violation of Connecticut General Statutes §20-202.

With regard to Paragraph 3c of the First Count, the Department did not sustain its burden of proof that the Respondent misdiagnosed Pierre as having an abscessed lipoma.

The Second Count

With regard to Paragraph 8 of the Second Count, the Department sustained its burden of proof that the Respondent failed to offer to take radiographs of or to perform a myelogram on Troubles, but did not sustain its burden of proof that such conduct constitutes a failure to conform to the standard of care for veterinarians. Accordingly, the Board does not find that the Respondent violated Connecticut General Statutes §20-202 with respect to the Second Count.

ORDER:

Pursuant to the authority vested in it by Connecticut General Statutes §19a-17 and §20-202, the Board orders the following in this case against Mary Norris, D.V.M., Petition Number 911204-47-020:

1. The Respondent shall be issued a letter of reprimand.
2. The Respondent shall be placed on probation for a period of six (6) months and shall be subject to the terms and conditions set forth in Paragraph 3 of the Order below.
3. The Board places the following conditions on the Respondent's practice of veterinary medicine during probation:
 - a. Respondent shall have a monthly review of ten percent (10%) of her patient records, or a total of 25 cases, whichever is less.

- b. The review shall consist of an evaluation of whether the Respondent did a thorough work-up of the patient's condition and whether the Respondent appropriately communicated her findings, diagnosis(es), and recommended treatment(s) with the owner(s) of the patient.
- c. The review is to be performed by a veterinarian licensed in Connecticut *chosen from a list of 3 names to be supplied by the R* and approved by the Department.
- d. Such veterinarian shall be approved and prepared to begin record reviews within thirty (30) days of the effective date of this Decision.
- e. Costs of such reviews shall be paid by the Respondent.
- f. The reviewing veterinarian shall submit monthly reports regarding such reviews to:

Bonnie Pinkerton, R.N.
Public Health Hearing Office
Department of Public Health and Addiction Services
150 Washington Street
Hartford, Connecticut 06106

4. Any deviation by the Respondent from the conditions of probation in Paragraph 3 above shall result in the following procedure:

- a. The Respondent will be notified in writing that the term(s) have been violated provided no prior written consent for deviation from the term(s) had been granted by the Department.
- b. Such notification shall state the act(s) or omission(s) which violated those terms.
- c. The Respondent will be allowed fifteen (15) days to demonstrate to the Department that she was in compliance with the terms or to cure the violation of those terms.
- d. If the Respondent does not demonstrate compliance or cure the violation by the limited fifteen day date certain contained in the notification of violation to the satisfaction of the Department, her license shall be revoked unless she requests a hearing as provided below.
- e. The Respondent must initiate said hearing through a written request by certified mail to the Department mailed within thirty (30) days from the date of mailing of the notification of violation of the terms of Paragraph 3.

f. The Respondent shall be entitled to a hearing before the Board if she requests the same in a timely fashion.

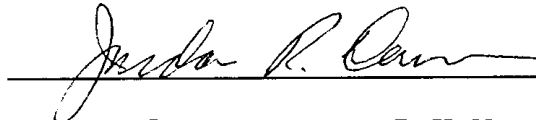
g. Evidence presented to said Board by either the Department or the Respondent shall be limited to the alleged violation(s) of the term(s) of Paragraph 3.

5. This decision shall become effective forty-five (45) days following the signature of the Board Chairperson.

Connecticut Board of Veterinary Medicine

9-13-95

Date

A handwritten signature in cursive script, reading "Jordan R. Dann", is written over a horizontal line.

by: Jordan R. Dann, D.V.M., Chairman

0619Q/33-43



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

May 21, 1996

Dr. Mary Norris
Pomfret Small Animal Clinic
54 Orchard Hill Road
Pomfret, Connecticut 06259

Re: Memorandum of Decision
Petition No. 911204-47-020

Dear Dr. Norris:

Please accept this letter as notice that you have successfully completed the terms of your probation, effective April 28, 1996.

Notice shall be sent to our License and Registration section to remove any restrictions from your license that are related to the above-referenced Memorandum of Decision.

Thank you for your cooperation during this process.

Very truly yours,

A handwritten signature in cursive script that reads "Bonnie Pinkerton".

Bonnie Pinkerton
Nurse Consultant
Division of Medical Quality Assurance

cc: Dr. George Looby
Debra Tomassone



Phone: (860) 509-7651

Telephone Device for the Deaf (860) 509-7191

410 Capitol Avenue - MS # 12 INV

P.O. Box 340308 Hartford, CT 06134

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